

AMENDED IN SENATE APRIL 14, 2015

SENATE BILL

No. 696

Introduced by Senator Roth

February 27, 2015

An act to amend Sections 10159.1, 10163.2, 10489.15, 10489.2, 10489.3, 10489.5, 10489.6, 10489.7, 10489.8, 10489.9, ~~and 10489.93, and 10489.94~~ of, to add Sections 10489.12, ~~10489.4~~, 10489.96, 10489.97, 10489.98, 10489.99, and 10489.992 to, and to repeal and add Sections 10489.1, ~~10489.4~~, and 10489.95 of, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 696, as amended, Roth. Insurance: principle-based valuation.

Existing law governs the issuance of life and disability insurance and authorizes the Insurance Commissioner to regulate those insurers. Existing law requires every life and disability insurer doing business in this state to annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by regulation are computed appropriately, are based on assumptions that satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable state law. Among other things, existing law requires insurers to calculate the minimum standard for the valuation of those policies and contracts using specified mortality tables approved by the commissioner, sets forth the applicable interest rates, and establishes the reserve requirements for various types of life and disability policies and contracts.

This bill would explicitly refer to the body of laws imposing those requirements, as specified, as the Standard Valuation Law. The bill

would require the commissioner and companies engaging in specified activities relating to the business of life insurance to incorporate the methodology employed by a specified manual of valuation instructions adopted by the National Association of Insurance Commissioners in making determinations relating to reserve requirements and the minimum standard of valuation for policies and contracts, as specified. The bill would require a company to establish reserves using a principle-based valuation that meets specified conditions in that manual, including quantifying the benefits, guarantees, and funding associated with the contracts, and would require the company to develop and file with the commissioner upon request, a principle-based valuation report. The bill would require a company to submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual. The bill would require the commissioner to impose an annual assessment on each insurer, based on the insurer's gross annual life insurance premium written by an insurer in California during the immediately preceding year, thereby imposing a tax. The bill would exempt certain information submitted by a company to the commissioner from disclosure pursuant to the California Public Records Act and would provide that it is not subject to subpoena or discovery or admissible in evidence in any private civil action. The bill would also authorize the commissioner to hire and assign department staff, and retain nondepartmental actuaries and other consultants, to assist the commissioner in implementing principle-based valuation.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 10159.1 of the Insurance Code is
2 amended to read:

3 10159.1. (a) This article is applicable only to policies and
4 contracts issued on or after the operative date as to such policies
5 or contracts of this article.

6 (b) The term “operative date of the valuation manual” means
7 the January 1 of the first calendar year that the valuation manual,
8 as defined in Section 10489.1, is effective.

9 SEC. 2. Section 10163.2 of the Insurance Code is amended to
10 read:

11 10163.2. (a) This section shall apply to all policies issued on
12 or after the operative date of this section as defined herein. Except
13 as provided in subdivision (g), the adjusted premiums for any
14 policy shall be calculated on an annual basis and shall be such
15 uniform percentage of the respective premiums specified in the
16 policy for each policy year, excluding amounts payable as extra
17 premiums to cover impairments or special hazards and also
18 excluding any uniform annual contract charge or policy fee
19 specified in the policy in a statement of the method to be used in
20 calculating the cash surrender values and paid-up nonforfeiture
21 benefits, that the present value, at the date of issue of the policy,
22 of all adjusted premiums shall be equal to the sum of (1) the then
23 present value of the future guaranteed benefits provided for by the
24 policy; (2) 1 percent of either the amount of insurance, if the
25 insurance be uniform in amount, or the average amount of
26 insurance at the beginning of each of the first 10 policy years; and
27 (3) 125 percent of the nonforfeiture net level premium as
28 hereinafter defined. Provided, however, that in applying the
29 percentage specified in (3) no nonforfeiture net level premium
30 shall be deemed to exceed 4 percent of either the amount of
31 insurance, if the insurance be uniform in amount, or the average
32 amount of insurance at the beginning of each of the first 10 policy
33 years. The date of issue of a policy for the purpose of this section
34 shall be the date as of which the rated age of the insured is
35 determined.

36 (b) The nonforfeiture net level premium shall be equal to the
37 present value, at the date of issue of the policy, of the guaranteed
38 benefits provided for by the policy, divided by the present value,

1 at the date of issue of the policy, of an annuity of 1 percent per
2 annum payable on the date of issue of the policy and on each
3 anniversary of such policy on which a premium falls due.

4 (c) In the case of policies which cause on a basis guaranteed in
5 the policy, unscheduled changes in benefits or premiums, or which
6 provide an option for changes in benefits or premiums other than
7 a change to a new policy, the adjusted premiums and present values
8 shall initially be calculated on the assumption that future benefits
9 and premiums do not change from those stipulated at the date of
10 issue of the policy. At the time of any such change in the benefits
11 or premiums the future adjusted premiums, nonforfeiture net level
12 premiums and present values shall be recalculated on the
13 assumption that future benefits and premiums do not change from
14 those stipulated by the policy immediately after the change.

15 (d) Except as otherwise provided in subdivision (g), the
16 recalculated future adjusted premiums for any such policy shall
17 be such uniform percentage of the respective future premiums
18 specified in the policy for each policy year, excluding amounts
19 payable as extra premiums to cover impairments and special
20 hazards, and also excluding any uniform annual contract charge
21 or policy fee specified in the policy in a statement of the method
22 to be used in calculating the cash surrender values and paid-up
23 nonforfeiture benefits, that the present value, at the time of change
24 to the newly defined benefits or premiums, of all such future
25 adjusted premiums shall be equal to the excess of (1) the sum of
26 (A) the then present value of the then future guaranteed benefits
27 provided for by the policy and (B) the additional expense
28 allowance, if any, over (2) the then cash surrender value, if any,
29 or present value of any paid-up nonforfeiture benefit under the
30 policy.

31 (e) The additional expense allowance, at the time of the change
32 to the newly defined benefits or premiums, shall be the sum of (1)
33 1 percent of the excess, if positive, of the average amount of
34 insurance at the beginning of each of the first 10 policy years
35 subsequent to the change over the average amount of insurance
36 prior to the change at the beginning of each of the first 10 policy
37 years subsequent to the time of the most recent previous change,
38 or, if there has been no previous change, the date of issue of the
39 policy; and (2) 125 percent of the increase, if positive, in the
40 nonforfeiture net level premium.

1 (f) The recalculated nonforfeiture net level premium shall be
2 equal to the result obtained by dividing (1) by (2) where:

3 (1) It equals the sum of:

4 (A) The nonforfeiture net level premium applicable prior to the
5 change times the present value of an annuity of 1 percent per
6 annum payable on each anniversary of the policy on or subsequent
7 to the date of the change on which a premium would have fallen
8 due had the change not occurred, and

9 (B) The present value of the increase in future guaranteed
10 benefits provided for by the policy, and

11 (2) It equals the present value of an annuity of 1 percent per
12 annum payable on each anniversary of the policy on or subsequent
13 to the date of change on which a premium falls due.

14 (g) Notwithstanding any other provisions of this section to the
15 contrary, in the case of a policy issued on a substandard basis
16 which provides reduced graded amounts of insurance so that, in
17 each policy year, such policy has the same tabular mortality cost
18 as an otherwise similar policy issued on the standard basis which
19 provides higher uniform amounts of insurance, adjusted premiums
20 and present values for such substandard policy may be calculated
21 as if it were issued to provide such higher uniform amounts of
22 insurance on the standard basis.

23 (h) All adjusted premiums and present values referred to in this
24 article shall for all policies of ordinary insurance be calculated on
25 the basis of (1) the Commissioners 1980 Standard Ordinary
26 Mortality Table or (2) at the election of the company for any one
27 or more specified plans of life insurance, the Commissioners 1980
28 Standard Ordinary Mortality Table with Ten-Year Select Mortality
29 Factors; shall for all policies of industrial insurance be calculated
30 on the basis of the Commissioners 1961 Standard Industrial
31 Mortality Table; and shall for all policies issued in a particular
32 calendar year be calculated on the basis of a rate of interest not
33 exceeding the nonforfeiture interest rate as defined in this section
34 for policies issued in that calendar year. Provided, however, that:

35 (1) At the option of the company, calculations for all policies
36 issued in a particular calendar year may be made on the basis of
37 a rate of interest not exceeding the nonforfeiture interest rate, as
38 defined in this section, for policies issued in the immediately
39 preceding calendar year.

1 (2) Under any paid-up nonforfeiture benefit, including any
2 paid-up dividend additions, any cash surrender value available,
3 whether or not required by Section 10160, shall be calculated on
4 the basis of the mortality table and rate of interest used in
5 determining the amount of such paid-up nonforfeiture benefit and
6 paid-up dividend additions, if any.

7 (3) A company may calculate the amount of any guaranteed
8 paid-up nonforfeiture benefit including any paid-up additions under
9 the policy on the basis of an interest rate no lower than that
10 specified in the policy for calculating cash surrender values.

11 (4) In calculating the present value of any paid-up term insurance
12 with accompanying pure endowment, if any, offered as a
13 nonforfeiture benefit, the rates of mortality assumed may be not
14 more than those shown in the Commissioners 1980 Extended Term
15 Insurance Table for policies of ordinary insurance and not more
16 than the Commissioners 1961 Industrial Extended Term Insurance
17 Table for policies of industrial insurance.

18 (5) For insurance issued on a substandard basis, the calculation
19 of any such adjusted premiums and present values may be based
20 on appropriate modifications of the aforementioned tables.

21 (6) (A) For policies issued prior to the operative date of the
22 valuation manual, any Commissioner's Standard ordinary mortality
23 tables, adopted after 1980 by the National Association of Insurance
24 Commissioners, or its successor, that are approved by regulation
25 promulgated or bulletin issued by the commissioner for use in
26 determining the minimum nonforfeiture standard may be
27 substituted for the Commissioners 1980 Standard Ordinary
28 Mortality Table with or without Ten-Year Select Mortality Factors
29 or for the Commissioners 1980 Extended Term Insurance Table.

30 (B) For policies issued on or after the operative date of the
31 valuation manual, the valuation manual shall provide the
32 Commissioners' Standard mortality table for use in determining
33 the minimum nonforfeiture standard that may be substituted for
34 the Commissioners 1980 Standard Ordinary Mortality Table with
35 or without Ten-year Select Mortality Factors or for the
36 Commissioners 1980 Extended Term Insurance Table. If the
37 commissioner approves by regulation any Commissioners'
38 Standard ordinary mortality table adopted by the National
39 Association of Insurance Commissioners for use in determining
40 the minimum nonforfeiture standard for policies issued on or after

1 the operative date of the valuation manual then that minimum
2 nonforfeiture standard supersedes the minimum nonforfeiture
3 standard provided by the valuation manual.

4 (7) (A) For policies issued prior to the operative date of the
5 valuation manual, any Commissioner's Standard industrial
6 mortality tables, adopted after 1980 by the National Association
7 of Insurance Commissioners, or its successor, that are approved
8 by regulation promulgated or bulletin issued by the commissioner
9 for use in determining the minimum nonforfeiture standard may
10 be substituted for the Commissioners 1961 Standard Industrial
11 Mortality Table or the Commissioners 1961 Industrial Extended
12 Term Insurance Table.

13 (B) For policies issued on or after the operative date of the
14 valuation manual, the valuation manual shall provide the
15 Commissioners' Standard mortality table for use in determining
16 the minimum nonforfeiture standard that may be substituted for
17 the Commissioners 1961 Standard Ordinary Mortality Table or
18 the Commissioners 1961 Industrial Extended Term Insurance
19 Table. If the commissioner approves by regulation any
20 Commissioners' Standard ordinary mortality table adopted by the
21 National Association of Insurance Commissioners for use in
22 determining the minimum nonforfeiture standard for policies issued
23 on or after the operative date of the valuation manual then that
24 minimum nonforfeiture standard supersedes the minimum
25 nonforfeiture standard provided by the valuation manual.

26 (i) The nonforfeiture interest rate.

27 (1) For policies issued prior to the operative date of the valuation
28 manual, the nonforfeiture interest rate per annum for any policy
29 issued in a particular calendar year shall be equal to 125 percent
30 of the calendar year statutory valuation interest rate for the policy
31 as defined in the Standard Valuation Law, rounded to the nearer
32 one-fourth of 1 percent, provided, however, that the nonforfeiture
33 interest rate shall not be less ~~that~~ *than* 4 percent.

34 (2) For policies issued on or after the operative date of the
35 valuation manual, the nonforfeiture interest rate per annum for any
36 policy issued in a particular calendar year shall be provided by the
37 valuation manual.

38 (j) Notwithstanding any other provision in this code to the
39 contrary, any refiling of nonforfeiture values or their methods of
40 computation for any previously approved policy form which

1 involves only a change in the interest rate or mortality table used
2 to compute nonforfeiture values shall not require refiling of any
3 other provisions of that policy form.

4 (k) After the effective date of this section, any company may
5 file with the commissioner a written notice of its election to comply
6 with the provision of this section after a specified date before
7 January 1, 1989, which shall be the operative date of this section
8 for such company. If a company makes no such election, the
9 operative date of this section for such company shall be January
10 1, 1989.

11 SEC. 3. Section 10489.1 of the Insurance Code is repealed.

12 SEC. 4. Section 10489.1 is added to the Insurance Code, to
13 read:

14 10489.1. (a) This article shall be known as the Standard
15 Valuation Law.

16 (b) For the purposes of this article, the following definitions
17 shall apply on or after the operative date of the valuation manual:
18 *apply:*

19 (1) "Accident and health insurance" means contracts that
20 incorporate morbidity risk and provide protection against economic
21 loss resulting from accident, sickness, or medical conditions and
22 as may be specified in the valuation manual.

23 (2) "Appointed actuary" means a qualified actuary who is
24 appointed in accordance with the valuation manual to prepare the
25 actuarial opinion required in subdivision (b) of Section 10489.15.

26 (3) "Company" means an entity, which (A) has written, issued,
27 or reinsured life insurance contracts, accident and health insurance
28 contracts, or deposit-type contracts in this state and has at least
29 one policy in force or on claim or (B) has written, issued, or
30 reinsured life insurance contracts, accident and health insurance
31 contracts, or deposit-type contracts in any state and is required to
32 hold a certificate of authority to write life insurance, accident and
33 health insurance, or deposit-type contracts in this state.

34 (4) "Deposit-type contract" means contracts that do not
35 incorporate mortality or morbidity risks and as may be specified
36 in the valuation manual.

37 (5) "Life insurance" means contracts that incorporate mortality
38 risk, including annuity and pure endowment contracts, and as may
39 be specified in the valuation manual.

1 (6) “NAIC” means the National Association of Insurance
2 Commissioners.

3 (7) “Policyholder behavior” means any action a policyholder,
4 contractholder, or any other person with the right to elect options,
5 such as a certificate holder, may take under a policy or contract
6 subject to this article, including, but not limited to, lapse,
7 withdrawal, transfer, deposit, premium payment, loan,
8 annuitization, or benefit elections prescribed by the policy or
9 contract, but excluding events of mortality or morbidity that result
10 in benefits prescribed in their essential aspects by the terms of the
11 policy or contract.

12 (8) “Principle-based valuation” means a reserve valuation that
13 uses one or more methods or one or more assumptions determined
14 by the insurer and is required to comply with Section 10489.97,
15 as specified in the valuation manual.

16 (9) “Qualified actuary” means an individual who is qualified to
17 sign the applicable statement of actuarial opinion in accordance
18 with the American Academy of Actuaries qualification standards
19 for actuaries signing those statements and who meets the
20 requirements specified in the valuation manual.

21 (10) “Tail risk” means a risk that occurs either when the
22 frequency of low probability events is higher than expected under
23 a normal probability distribution or when there are observed events
24 of very significant size or magnitude.

25 (11) “Valuation manual” means the manual of valuation
26 instructions adopted by the NAIC as specified in this article or as
27 subsequently amended.

28 (c) This article and Sections 10480, 10481, 10483, 10484, and
29 10486 shall apply (1) to the valuation of policies and contracts
30 subject to this article issued on or after the operative date of the
31 valuation manual and (2) as provided in Section 10489.3 as to the
32 valuation of benefits purchased under group annuity and pure
33 endowment-~~contracts~~ *contracts* issued prior to that operative date.

34 SEC. 5. Section 10489.12 is added to the Insurance Code, to
35 read:

36 10489.12. (a) For policies and contracts issued prior to the
37 operative date of the valuation manual, both of the following shall
38 be satisfied:

39 (1) The commissioner shall annually value, or cause to be
40 valued, the reserve liabilities (hereinafter called reserves) for all

1 outstanding life insurance policies and annuity and pure endowment
2 contracts of every life insurance company doing business in this
3 state issued prior to the operative date of the valuation manual. In
4 calculating reserves, the commissioner may use group methods
5 and approximate averages for fractions of a year or otherwise. In
6 lieu of the valuation of the reserves required of a foreign or alien
7 company, the commissioner may accept a valuation made, or
8 caused to be made, by the insurance supervisory official of any
9 state or other jurisdiction when the valuation complies with the
10 minimum standard provided in this article.

11 (2) Sections 10489.2, 10489.3, 10489.4, 10489.5, 10489.6,
12 10489.7, 10489.8, 10489.9, 10489.93, and 10489.95 shall apply
13 to all appropriate policies and contracts subject to this article and
14 issued prior to the operative date of the valuation manual. Sections
15 10489.96 and 10489.97 shall not apply to any of those policies
16 and contracts.

17 (b) For policies and contracts issued on or after the operative
18 date of the valuation manual, both of the following shall be
19 satisfied:

20 (1) The commissioner shall annually value, or cause to be
21 valued, the reserves for all outstanding life insurance contracts,
22 annuity and pure endowment contracts, accident and health
23 contracts, and deposit-type contracts of every company issued on
24 or after the operative date of the valuation manual. In lieu of the
25 valuation of the reserves required of a foreign or alien company,
26 the commissioner may accept a valuation made, or caused to be
27 made, by the insurance supervisory official of any state or other
28 jurisdiction when the valuation complies with the minimum
29 standard provided in this article.

30 (2) Sections 10489.96 and 10489.97 shall apply to all policies
31 and contracts issued on or after the operative date of the valuation
32 manual.

33 SEC. 6. Section 10489.15 of the Insurance Code is amended
34 to read:

35 10489.15. (a) *Each of the following shall apply prior to the*
36 *operative date of the valuation manual:* ~~(1)~~

37 ~~(1) For an actuarial opinion prior to the operative date of the~~
38 ~~valuation manual,~~ every life insurance company doing business
39 in this state shall annually submit the opinion of a qualified actuary
40 as to whether the reserves and related actuarial items held in

1 support of the policies and contracts specified by the commissioner
2 by regulation are computed appropriately, are based on assumptions
3 that satisfy contractual provisions, are consistent with prior reported
4 amounts, and comply with applicable laws of this state. The
5 commissioner shall define by regulation the specifics of this
6 opinion and add any other items deemed to be necessary to its
7 scope.

8 (2) (A) For an actuarial analysis of reserves and assets
9 supporting reserves, every life insurance company, except as
10 exempted by regulation, shall also annually include in the opinion
11 required by paragraph (1), an opinion of the same qualified actuary
12 as to whether the reserves and related actuarial items held in
13 support of the policies and contracts specified by the commissioner
14 by regulation, when considered in light of the assets held by the
15 company with respect to the reserves and related actuarial items,
16 including, but not limited to, the investment earnings on the assets
17 and the considerations anticipated to be received and retained under
18 the policies and contracts, make adequate provision for the
19 company's obligations under the policies and contracts, including,
20 but not limited to, the benefits under and expenses associated with
21 the policies and contracts.

22 (B) The commissioner may provide by regulation for a transition
23 period for establishing any higher reserves that the qualified actuary
24 may deem necessary in order to render the opinion required by
25 this section.

26 (3) An opinion required by paragraph (2) shall be governed by
27 the following:

28 (A) A memorandum, in form and substance acceptable to the
29 commissioner as specified by regulation, shall be prepared to
30 support each actuarial opinion.

31 (B) If the insurance company fails to provide a supporting
32 memorandum at the request of the commissioner within a period
33 specified by regulation, or the commissioner determines that the
34 supporting memorandum provided by the insurance company fails
35 to meet the standards prescribed by the regulations or is otherwise
36 unacceptable to the commissioner, the commissioner may engage
37 a qualified actuary at the expense of the company to review the
38 opinion and the basis for the opinion and prepare the supporting
39 memorandum required by the commissioner.

(4) Every opinion required by this subdivision shall be governed by the following provisions:

(A) The opinion shall be submitted with the annual statement reflecting the valuation of the reserve liabilities for each year ending on or after December 31, 1992.

(B) The opinion shall apply to all business in force, including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by regulation.

(C) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on any additional standards as the commissioner may by regulation prescribe.

(D) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(E) For the purposes of this section, “qualified actuary” means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in the regulation.

(F) The qualified actuary shall be liable for his or her negligence or other tortious conduct.

(G) Disciplinary action by the commissioner against the company or the qualified actuary may be defined in regulations by the commissioner.

(H) Except as provided in subparagraphs (L), (M), and (N), documents, materials, or other information in the possession or control of the Department of Insurance that are a memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, shall be confidential by law and privileged, shall not be subject to the California Public Records Act, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner may use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner’s official duties.

(I) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner shall be permitted or required to

1 testify in any private civil action concerning any confidential
2 documents, materials, or information subject to subparagraph (H).

3 (J) In order to assist in the performance of the commissioner's
4 duties, the commissioner may do any of the following:

5 (i) Share documents, materials, or other information, including
6 the confidential and privileged documents, materials, or
7 information subject to subparagraph (H), with other state, federal,
8 and international regulatory agencies, with the National Association
9 of Insurance Commissioners and its affiliates and subsidiaries, and
10 with state, federal, and international law enforcement authorities,
11 provided that the recipient agrees to maintain the confidentiality
12 and privileged status of the document, material, or other
13 information.

14 (ii) Receive documents, materials, or information, including
15 otherwise confidential and privileged documents, materials, or
16 information, from the National Association of Insurance
17 Commissioners and its affiliates and subsidiaries, and from
18 regulatory and law enforcement officials of other foreign or
19 domestic jurisdictions, and shall maintain as confidential or
20 privileged any document, material, or information received with
21 notice or the understanding that it is confidential or privileged
22 under the laws of the jurisdiction that is the source of the document,
23 material, or information.

24 (iii) Enter into agreements governing sharing and use of
25 information consistent with subparagraphs (H) to (J), inclusive.

26 (K) No waiver of any applicable privilege or claim of
27 confidentiality in the documents, materials, or information shall
28 occur as a result of disclosure to the commissioner under this
29 section or as a result of sharing as authorized in subparagraph (J).

30 (L) A memorandum in support of the opinion, and any other
31 material provided by the company to the commissioner in
32 connection with the memorandum, may be subject to subpoena
33 for the purpose of defending an action seeking damages from the
34 actuary submitting the memorandum by reason of an action
35 required by this section or by regulations promulgated pursuant
36 to this section.

37 (M) The memorandum or the other material may otherwise be
38 released by the commissioner with the written consent of the
39 company or to the American Academy of Actuaries upon request
40 stating that the memorandum or other material is required for the

1 purpose of professional disciplinary proceedings and setting forth
2 procedures satisfactory to the commissioner for preserving the
3 confidentiality of the memorandum or the other material.

4 (N) Once any portion of the confidential memorandum is cited
5 by the company in its marketing efforts or is cited before a
6 governmental agency other than a state insurance department or
7 is released by the company to the news media, all portions of the
8 confidential memorandum shall no longer be confidential.

9 (b) *Each of the following shall apply after the operative date of*
10 *the valuation manual:* ~~(1)~~

11 (1) ~~For an actuarial opinion of reserves after the operative date~~
12 ~~of the valuation manual~~, every company with outstanding life
13 insurance contracts, accident and health insurance contracts, or
14 deposit-type contracts in this state and subject to regulation by the
15 commissioner shall annually submit the opinion of the appointed
16 actuary as to whether the reserves and related actuarial items held
17 in support of the policies and contracts are computed appropriately,
18 are based on assumptions that satisfy contractual provisions, are
19 consistent with prior reported amounts, and comply with applicable
20 laws of this state. The valuation manual shall prescribe the specifics
21 of this opinion including any items deemed to be necessary to its
22 scope.

23 (2) For an actuarial analysis of reserves and assets supporting
24 reserves, every company with outstanding life insurance contracts,
25 accident and health insurance contracts, or deposit-type contracts
26 in this state and subject to regulation by the commissioner, except
27 as exempted in the valuation manual, shall also annually include
28 in the opinion required by paragraph (1) an opinion of the same
29 appointed actuary as to whether the reserves and related actuarial
30 items held in support of the policies and contracts specified in the
31 valuation manual, when considered in light of the assets held by
32 the company with respect to the reserves and related actuarial
33 items, including, but not limited to, the investment earnings on the
34 assets and the considerations anticipated to be received and retained
35 under the policies and contracts, adequately provide for the
36 company's obligations under the policies and contracts, including,
37 but not limited to, the benefits under and expenses associated with
38 the policies and contracts.

39 (3) Every opinion required by this subdivision shall be governed
40 by both of the following provisions:

1 (A) A memorandum, in form and substance as specified in the
2 valuation manual, and acceptable to the commissioner, shall be
3 prepared to support each actuarial opinion.

4 (B) If the insurance company fails to provide a supporting
5 memorandum at the request of the commissioner within a period
6 specified in the valuation manual, or the commissioner determines
7 that the supporting memorandum provided by the insurance
8 company fails to meet the standards prescribed by the valuation
9 manual or is otherwise unacceptable to the commissioner, the
10 commissioner may engage a qualified actuary at the expense of
11 the company to review the opinion and the basis for the opinion
12 and prepare the supporting memorandum required by the
13 commissioner.

14 (4) Every opinion subject to this subdivision shall be governed
15 by the following provisions:

16 (A) The opinion shall be in form and substance as specified in
17 the valuation manual and acceptable to the commissioner.

18 (B) The opinion shall be submitted with the annual statement
19 reflecting the valuation of the reserve liabilities for each year
20 ending on or after the operative date of the valuation manual.

21 (C) The opinion shall apply to all policies and contracts subject
22 to paragraph (2), plus other actuarial liabilities as may be specified
23 in the valuation manual.

24 (D) The opinion shall be based on standards adopted from time
25 to time by the Actuarial Standards Board or its successor, and on
26 such additional standards as may be prescribed in the valuation
27 manual.

28 (E) If an opinion is required to be submitted by a foreign or
29 alien company, the commissioner may accept the opinion filed by
30 that company with the insurance supervisory official of another
31 state if the commissioner determines that the opinion reasonably
32 meets the requirements applicable to a company domiciled in this
33 state.

34 (F) The qualified actuary shall be liable for his or her negligence
35 or other tortious conduct.

36 (G) Disciplinary action by the commissioner against the
37 company or the appointed actuary may be defined in regulations
38 by the commissioner.

39 SEC. 7. Section 10489.2 of the Insurance Code is amended to
40 read:

1 10489.2. For a computation of minimum standard, except as
2 provided in Sections 10489.3, 10489.4, and 10489.95, the minimum
3 standard for the valuation of policies and contracts issued prior to
4 the effective date of the amendments to this section shall be that
5 provided by the laws in effect immediately prior to that date.
6 Except as otherwise provided in Sections 10489.3, 10489.4, and
7 10489.95, the minimum standard for the valuation of those policies
8 and contracts shall be the commissioners reserve valuation methods
9 defined in Sections 10489.5, 10489.6, 10489.9, and 10489.95, 3 ½
10 percent per annum interest, or in the case of life insurance policies
11 and contracts, other than certain annuity and pure endowment
12 contracts, issued on or after January 1, 1970, 4 percent per annum
13 interest for policies issued prior to January 1, 1980, 5 ½ percent
14 per annum interest may be used for single premium life insurance
15 policies and 4 ½ percent per annum interest for all other policies
16 issued on or after January 1, 1980, and the following tables:

17 (a) For ordinary policies of life insurance issued on the standard
18 basis, excluding any disability and accidental death benefits in
19 those policies—the Commissioners 1941 Standard Ordinary
20 Mortality Table for policies issued prior to the operative date of
21 subdivision (a) of Section 10163.1, and the Commissioners 1958
22 Standard Ordinary Mortality Table for policies issued on or after
23 the operative date of subdivision (a) of Section 10163.1, as
24 amended by Chapter 940 of the Statutes of 1982, and prior to the
25 operative date of Section 10163.2, as amended by Chapter 28 of
26 the Statutes of 1997, provided that for any category of policies
27 issued on female risks, all modified net premiums and present
28 values referred to in this article may be calculated according to an
29 age not more than six years younger than the actual age of the
30 insured. For policies issued on or after the *original* operative date
31 of Section 10163.2, as amended by Chapter 28 of the Statutes of
32 1997, the following shall apply:

33 (1) The Commissioners 1980 Standard Ordinary Mortality Table.

34 (2) At the election of the company for any one or more specified
35 plans of life insurance, the Commissioners 1980 Standard Ordinary
36 Mortality Table with Ten-Year Select Mortality Factors.

37 (3) Any ordinary mortality table, adopted after 1980 by the
38 National Association of Insurance Commissioners, or its successor,
39 that is approved by regulation promulgated or bulletin issued by

1 the commissioner for use in determining the minimum standard
2 of valuation for such policies.

3 (b) For industrial life insurance policies issued on the standard
4 basis, excluding any disability and accidental death benefits in the
5 policies, the 1941 Standard Industrial Mortality Table for policies
6 issued prior to the operative date of subdivision (b) of Section
7 10163.1, of the Standard Nonforfeiture Law for Life Insurance as
8 amended, and for policies issued on or after the operative date the
9 Commissioners 1961 Standard Industrial Mortality Table or any
10 industrial mortality table adopted after 1980 by the NAIC that is
11 approved by regulation promulgated or bulletin issued by the
12 commissioner for use in determining the minimum standard of
13 valuation for the policies.

14 (c) For individual annuity and pure endowment contracts issued
15 prior to the compliance date of Section 10489.3, excluding any
16 disability and accidental death benefits in the policies: 1937
17 Standard Annuity Mortality Table or, at the option of the company,
18 the Annuity Mortality Table for 1949, Ultimate, or any
19 modification of these tables approved by the commissioner.
20 However, the minimum standard for such contracts issued from
21 January 1, 1968, through December 31, 1968, with commencement
22 of benefits deferred not more than one year from date of issue,
23 may be, at the option of the company, 4 percent per annum interest,
24 and for contracts issued from January 1, 1969, to the compliance
25 date of Section 10489.3, with commencement of benefits deferred
26 not more than 10 years from date of issue and with premiums
27 payable in one sum may be, at the option of the company, 5 percent
28 per annum interest.

29 (d) For group annuity and pure endowment contracts, excluding
30 any disability and accidental death benefits in the policies: the
31 Group Annuity Mortality Table for 1951, a modification of the
32 table approved by the commissioner, or, at the option of the
33 company, any of the tables or modifications of the tables specified
34 for individual annuity and pure endowment contracts. However,
35 the minimum standard for annuities and pure endowments
36 purchased or to be purchased prior to the compliance date of
37 Section 10489.3, under group annuity and pure endowment
38 contracts with considerations received on or after January 1, 1968,
39 through December 31, 1968, may be, at the option of the company,
40 4 percent per annum interest, and for annuities and pure

1 endowments purchased or to be purchased prior to the compliance
2 date of Section 10489.3, under group annuity and pure endowment
3 contracts with considerations received from January 1, 1969, to
4 the compliance date of Section 10489.3, may be at the option of
5 the company, 5 percent per annum interest.

6 (e) For total and permanent disability benefits in or
7 supplementary to ordinary policies or contracts: for policies or
8 contracts issued on or after January 1, 1966, the tables of Period
9 2 disablement rates and the 1930 to 1950 termination rates of the
10 1952 Disability Study of the Society of Actuaries, with due regard
11 to the type of benefit or any tables of disablement rates and
12 termination rates, adopted after 1980 by the NAIC that are
13 approved by regulation promulgated or bulletin issued by the
14 commissioner for use in determining the minimum standard of
15 valuation for those policies; for policies or contracts issued on or
16 after January 1, 1961, and prior to January 1, 1966, either those
17 tables or, at the option of the company, the Class (3) Disability
18 Table (1926); and for policies issued prior to January 1, 1961, the
19 Class (3) Disability Table (1926). Any such table shall, for active
20 lives, be combined with a mortality table permitted for calculating
21 the reserves for life insurance policies.

22 (f) For accidental death benefits in or supplementary to policies
23 issued on or after January 1, 1966: the 1959 Accidental Death
24 Benefits Table or any accidental death benefits table, adopted after
25 1980 by the NAIC that is approved by regulation promulgated or
26 bulletin issued by the commissioner for use in determining the
27 minimum standard of valuation for those policies, for policies
28 issued on or after January 1, 1961, and prior to January 1, 1966,
29 either that table or, at the option of the company, the
30 Inter-Company Double Indemnity Mortality Table; and for policies
31 issued prior to January 1, 1961, the Inter-Company Double
32 Indemnity Mortality Table. Either table shall be combined with a
33 mortality table for calculating the reserves for life insurance
34 policies.

35 (g) For group life insurance, life insurance issued on the
36 substandard basis and other special benefits: tables approved by
37 the commissioner.

38 (h) The commissioner may by bulletin withdraw approval to
39 use tables replaced by newly adopted tables.

SEC. 8. Section 10489.3 of the Insurance Code is amended to read:

10489.3. (a) Except as provided in Section 10489.4, the minimum standard of valuation for individual annuity and pure endowment contracts issued on or after the operative date of the amendments made to this section by the act that added subdivision (b) *this section* and for annuities and pure endowments purchased on or after that operative date under group annuity and pure endowment contracts, shall be the commissioners reserve valuation methods defined in Sections 10489.5 and 10489.6 and the following tables and interest rates:

(1) For individual annuity and pure endowment contracts issued prior to January 1, 1980, excluding any disability and accidental death benefits in those ~~contracts~~, *contracts*: the 1971 Individual Annuity Mortality ~~Table for 1971~~, *Table*, or any modification of this table approved by the commissioner, *and* 6 percent per annum interest rate for all contracts with commencement of benefits deferred not more than 10 years from the date of issue and with premiums payable in one sum and 4 percent per annum interest for all other individual annuity and pure endowment contracts.

(2) For individual single premium immediate annuity contracts issued on or after January 1, 1980, excluding any disability and accidental death benefits in those contracts: the 1971 Individual Annuity Mortality Table or any individual annuity mortality table adopted after 1980 by the NAIC that is approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum standard of valuation for these contracts, or any modification of these tables approved by the commissioner, and 7 ½ percent per annum interest.

(3) For individual annuity and pure endowment contracts issued on or after January 1, 1980, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in those contracts, the 1971 Individual Annuity Mortality Table or any individual annuity mortality table, adopted after 1980 by the NAIC that is approved by regulation promulgated or bulletin issued by the commissioner for use in determining the minimum standard of valuation for those contracts, or any modification of these tables approved by the commissioner, and 5 ½ percent per annum interest for single premium deferred annuity and pure

1 endowment contracts and 4½ percent per annum interest for all
2 other individual annuity and pure endowment contracts.

3 (4) For annuities and pure endowments purchased prior to
4 January 1, 1980, under group annuity and pure endowment
5 contracts, excluding any disability and accidental death benefits
6 purchased under those contracts: the 1971 Group Annuity Mortality
7 Table or any modification of this table approved by the
8 commissioner, and 6 percent per annum interest.

9 (5) For annuities and pure endowments purchased on or after
10 January 1, 1980, under group annuity and pure endowment
11 contracts, excluding any disability and accidental death benefits
12 purchased under those contracts: the 1971 Group Annuity Mortality
13 Table, or any group annuity mortality table adopted after 1980 by
14 the NAIC that is approved by regulation promulgated or bulletin
15 issued by the commissioner for use in determining the minimum
16 standard of valuation for annuities and pure endowments, or any
17 modification of these tables approved by the commissioner, and
18 7½ percent interest.

19 (6) All individual annuity and pure endowment contracts entered
20 into prior to January 1, 1980, and all annuities and pure
21 endowments purchased prior to January 1, 1980, under group
22 annuity and pure endowment contracts shall remain subject to the
23 provisions of Article 3A (commencing with Section 10489.1) as
24 it existed prior to January 1, 1980.

25 (b) The commissioner may, by bulletin, withdraw approval to
26 use tables replaced by newly adopted tables.

27 *SEC. 9. Section 10489.4 of the Insurance Code is repealed.*

28 ~~10489.4. (a) The interest rates used in determining the~~
29 ~~minimum standard for the valuation of all life insurance policies~~
30 ~~issued in a particular calendar year, on or after the operative date~~
31 ~~of Section 10163.2, all individual annuity and pure endowment~~
32 ~~contracts issued in a particular calendar year on or after January~~
33 ~~1, 1982, all annuities and pure endowments purchased in a~~
34 ~~particular calendar year on or after January 1, 1982, under group~~
35 ~~annuity and pure endowment contracts, and the net increase, if~~
36 ~~any, in a particular calendar year after January 1, 1982, in amounts~~
37 ~~held under guaranteed interest contracts shall be the calendar year~~
38 ~~statutory valuation interest rates as defined in subdivision (b).~~

~~(b) (1) The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one-quarter of 1 percent:~~

~~(A) For life insurance:~~

$$I = .03 + W(R_1 - .03) + W/2(R_2 - .09)$$

~~(B) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:~~

$$I = .03 + W(R - .03)$$

~~—Where~~

~~—R₁ is the lesser of R and .09;~~

~~—R₂ is the greater of R and .09;~~

~~—R is the reference interest rate defined in subdivision (d) or (e)~~

~~—of this section, and~~

~~—W is the weighting factor defined in subdivision (e) of this section.~~

~~(C) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in (B), the formula for life insurance stated in (A) shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years and the formula for single premium immediate annuities stated in (B) shall apply to annuities and guaranteed interest contracts with guarantee duration of 10 years or less.~~

~~(D) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in (B) shall apply.~~

~~(E) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change-in-fund basis, the formula for single premium immediate annuities stated in (B) shall apply.~~

~~(2) However, if the calendar year statutory valuation interest rate for any life insurance policies issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of 1~~

1 percent, the calendar year statutory valuation interest rate for such
2 life insurance policies shall be equal to the corresponding actual
3 rate for the immediately preceding calendar year. For purposes of
4 applying the immediately preceding sentence, the calendar year
5 statutory valuation interest rate for life insurance policies issued
6 in a calendar year shall be determined for 1980 (using the reference
7 interest rate defined for 1979) and shall be determined for each
8 subsequent calendar year regardless of the operative date of Section
9 10163.2.

10 (e) ~~Weighting Factors.~~

11 (1) ~~The weighting factors referred to in the formulas stated~~
12 ~~above are given in the following tables:~~

13 (A) ~~Weighting Factors for Life Insurance:~~

Guarantee Duration (Years)	Weighting Factors
10 or less50
More than 10, but not more than 2045
More than 2035

20
21 For life insurance, the guarantee duration is the maximum
22 number of years the life insurance can remain in force on a basis
23 guaranteed in the policy or under options to convert to plans of
24 life insurance with premium rates or nonforfeiture values or both
25 which are guaranteed in the original policy.

26 (B) ~~Weighting factor for single premium immediate annuities~~
27 ~~and for annuity benefits involving life contingencies arising from~~
28 ~~other annuities with cash settlement options and guaranteed interest~~
29 ~~contracts with cash settlement options:~~
30 .80

31
32 (C) ~~Weighting factors for other annuities and for guaranteed~~
33 ~~interest contracts, except as stated in (B), shall be as specified in~~
34 ~~tables (i), (ii), and (iii) below, according to the rules and definitions~~
35 ~~in (iv), (v), and (vi):~~

36
37 (i) ~~For annuities and guaranteed interest contracts valued~~
38 ~~on an issue year basis:~~

Weighting Factor for Plan Type

1	Guarantee Duration (Years)	A	B	C
2				
3	5 or less	.80	.60	.50
4	More than 5, but not more than 10	.75	.60	.50
5	More than 10, but not more than 20	.65	.50	.45
6	More than 20	.45	.35	.35
7				
8	(ii) For annuities and guaranteed interest contracts valued			
9	on a change-in-fund basis, the factors shown in (i)			
10	above increased by:	.15	.25	.05
11				
12	(iii) For annuities and guaranteed interest contracts valued	—	—	—
13	on an issue year basis (other than those with no cash	—	—	—
14	settlement options) which do not guarantee interest	—	—	—
15	on considerations received more than one year after	—	—	—
16	issue or purchase and for annuities and guaranteed	—	—	—
17	interest contracts valued on a change-in-fund basis	—	—	—
18	which do not guarantee interest rates on	—	—	—
19	considerations received more than 12 months beyond	—	—	—
20	the valuation date, the factors shown in (i) or derived	—	—	—
21	in (ii) increased by:	.05	.05	.05
22				
23	(iv) For other annuities with cash settlement options and			
24	guaranteed interest contracts with cash settlement options, the			
25	guarantee duration is the number of years for which the contract			
26	guarantees interest rates in excess of the calendar year statutory			
27	valuation interest rate for life insurance policies with guarantee			
28	duration in excess of 20 years. For other annuities with no cash			
29	settlement options and for guaranteed interest contracts with no			
30	cash settlement options, the guarantee duration is the number of			
31	years from the date of issue or date of purchase to the date annuity			
32	benefits are scheduled to commence:			
33	(v) Plan type as used in the above tables is defined as follows:			
34	Plan Type A: At any time policyholder may withdraw funds			
35	only (1) with an adjustment to reflect changes in interest rates or			
36	asset values since receipt of the funds by the insurance company,			
37	or (2) without such adjustment but in installments over five years			
38	or more, or (3) as an immediate life annuity, or (4) no withdrawal			
39	permitted.			

1 Plan Type B:—Before expiration of the interest rate guarantee,
2 policyholder may withdraw funds only (1) with an adjustment to
3 reflect changes in interest rates or asset values since receipt of the
4 funds by the insurance company, or (2) without such adjustment
5 but in installments over five years or more, or (3) no withdrawal
6 permitted. At the end of interest rate guarantee, funds may be
7 withdrawn without such adjustment in a single sum or installments
8 over less than five years.

9 Plan Type C: Policyholder may withdraw funds before
10 expiration of interest rate guarantee in a single sum or installments
11 over less than five years either (1) without adjustment to reflect
12 changes in interest rates or asset values since receipt of the funds
13 by the insurance company, or (2) subject only to a fixed surrender
14 charge stipulated in the contract as a percentage of the fund.

15 (vi) A company may elect to value guaranteed interest contracts
16 with cash settlement options and annuities with cash settlement
17 options on either an issue year basis or on a change-in-fund basis.
18 Guaranteed interest contracts with no cash settlement options and
19 other annuities with no cash settlement options must be valued on
20 an issue year basis. As used in this section, an issue year basis of
21 valuation refers to a valuation basis under which the interest rate
22 used to determine the minimum valuation standard for the entire
23 duration of the annuity or guaranteed interest contract is the
24 calendar year valuation interest rate for the year of issue or year
25 of purchase of the annuity or guaranteed interest contract, and the
26 change-in-fund basis of valuation refers to a valuation basis under
27 which the interest rate used to determine the minimum valuation
28 standard applicable to each change in the fund held under the
29 annuity or guaranteed interest contract is the calendar year
30 valuation interest rate for the year of the change in the fund.

31 (d) The reference interest rate referred to in subdivision (b) of
32 this section shall be defined as follows:

33 (1) For all life insurance, the lesser of the average over a period
34 of 36 months and the average over a period of 12 months, ending
35 on June 30 of the calendar year next preceding the year of issue,
36 of the Monthly Average of the Composite Yield on Seasoned
37 Corporate Bonds, as published by Moody's Investors Service, Inc.

38 (2) For single premium immediate annuities and for annuity
39 benefits involving life contingencies arising from other annuities
40 with cash settlement options and guaranteed interest contracts with

1 cash-settlement options, the average over a period of 12 months,
2 ending on June 30 of the calendar year of issue or year of purchase,
3 of the Monthly Average of the Composite Yield on Seasoned
4 Corporate Bonds, as published by Moody's Investors Service, Inc.

5 (3) For other annuities with cash settlement options and
6 guaranteed interest contracts with cash settlement options, valued
7 on a year-of-issue basis, except as stated in (2) above, with
8 guarantee duration in excess of 10 years, the lesser of the average
9 over a period of 36 months and the average over a period of 12
10 months, ending on June 30 of the calendar year of issue or
11 purchase, of the Monthly Average of the Composite Yield on
12 Seasoned Corporate Bonds, as published by Moody's Investors
13 Service, Inc.

14 (4) For other annuities with cash settlement options and
15 guaranteed interest contracts with cash settlement options, valued
16 on a year-of-issue basis, except as stated in (2) above, with
17 guarantee duration of 10 years or less, the average over a period
18 of 12 months, ending on June 30 of the calendar year of issue or
19 purchase, of the Monthly Average of the Composite Yield on
20 Seasoned Corporate Bonds, as published by Moody's Investors
21 Service, Inc.

22 (5) For other annuities with no cash settlement options and for
23 guaranteed interest contracts with no cash settlement options, the
24 average over a period of 12 months, ending on June 30 of the
25 calendar year of issue or purchase, of the Monthly Average of the
26 Composite Yield on Seasoned Corporate Bonds, as published by
27 Moody's Investors Service, Inc.

28 (6) For other annuities with cash settlement options and
29 guaranteed interest contracts with cash settlement options, valued
30 on a change-in-fund basis, except as stated in (2) above, the average
31 over a period of 12 months, ending on June 30 of the calendar year
32 of the change in the fund, of the Monthly Average of the Composite
33 Yield on Seasoned Corporate Bonds, as published by Moody's
34 Investors Service, Inc.

35 (e) In the event that the Monthly Average of the Composite
36 Yield on Seasoned Corporate Bonds is no longer published by
37 Moody's Investors Service, Inc., or in the event that the National
38 Association of Insurance Commissioners, or its successor,
39 determines that Moody's Corporate Bond Yield Average—Monthly
40 Average Corporates as published by Moody's Investors Service,

1 ~~Inc. is no longer appropriate for the determination of the reference~~
2 ~~interest rate, then an alternative method for determination of the~~
3 ~~reference interest rate, which is adopted by the National~~
4 ~~Association of Insurance Commissioners, or its successor, and~~
5 ~~approved by regulation promulgated by the commissioner, may~~
6 ~~be substituted.~~

7 ~~(f) This section shall apply to all certificates and contracts issued~~
8 ~~by a fraternal benefit society.~~

9 **SEC. 9.**

10 **SEC. 10.** Section 10489.4 is added to the Insurance Code, to
11 read:

12 10489.4. (a) ~~For the computation of minimum standard by~~
13 ~~calendar year of issue, the~~ The interest rates used in determining
14 the minimum standard for the valuation of the following shall be
15 the calendar year statutory valuation interest rates as defined in
16 this section:

17 (1) Life insurance policies issued in a particular calendar year,
18 on or after the operative date of Section 10163.2 as amended by
19 Section 28 of the Statutes of 1997.

20 (2) Individual annuity and pure endowment contracts issued in
21 a particular calendar year on or after January 1, 1982.

22 (3) Annuities and pure endowments purchased in a particular
23 calendar year on or after January 1, 1982, under group annuity and
24 pure endowment contracts.

25 (4) The net increase, if any, in a particular calendar year after
26 January 1, 1982, in amounts held under guaranteed interest
27 contracts.

28 (b) (1) ~~For the~~ The calendar year statutory valuation interest
29 rates, expressed in the following formulas as “I,” shall be
30 determined as follows and the results rounded to the nearest
31 one-fourth of 1 percent:

32 (A) For life insurance:

33
34
$$I = .03 + W(R_1 - .03) + \frac{W}{2}(R_2 - .09)$$

35
36 Where

37 R_1 is the lesser of R and .09,

38 R_2 is the greater of R and .09,

39 R is the reference interest rate defined in this section,

40 W is the weighting factor defined in this section.

(B) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options:

$$I = .03 + W(R - .03)$$

Where

R is the reference interest rate defined in this section,

W is the weighting factor defined in this section.

(C) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in subparagraph (B), the formula for life insurance stated in subparagraph (A) shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of 10 years and the formula for single premium immediate annuities stated in subparagraph (B) shall apply to annuities and guaranteed interest contracts with guarantee duration of 10 years or less.

(D) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in subparagraph (B) shall apply.

(E) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in subparagraph (B) shall apply.

(2) However, if the calendar year statutory valuation interest rate for a life insurance policy issued in any calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of 1 percent, the calendar year statutory valuation interest rate for the life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year. For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 (using the reference interest rate defined in 1979) and shall be determined for each

subsequent calendar year regardless of when Section 10163.2, as amended by Chapter 28 of the Statutes of 1997, amended, becomes operative.

(c) The weighting factors referred to in the formulas stated above are given in the following tables:

(1) Weighting Factors for Life Insurance:

Guarantee Duration (Years)	Weighting Factors
10 or less50
More than 10, but not more than 2045
More than 2035

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy.

(2) Weighting factors for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options shall be .80.

(3) Weighting factors for other annuities and for guaranteed interest contracts, except as stated in paragraph (2), shall be as specified in subparagraphs (A), (B), and (C), according to the rules and definitions in subparagraphs (D), (E), and (F):

(A) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type		
	A	B	C
5 or less:	.80	.60	.50
More than 5, but not more than 10:	.75	.60	.50
More than 10, but not more than 20:	.65	.50	.45
More than 20:	.45	.35	.35

(B) For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in subparagraph (A) increased by:

Plan Type

1	A	B	C
2	.15	.25	.05

(C) For annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settlement options, that do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts valued on a change in fund basis that do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in subparagraph (A) or derived in subparagraph (B) increased by _____ by:

	<i>Plan Type</i>		
	<i>A</i>	<i>B</i>	<i>C</i>
	.05	.05	.05

(D) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guaranteed duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(E) Plan type as used in the above tables is defined as follows:

(i) For Plan Type A: At any time a policyholder may withdraw funds only (I) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, (II) without an adjustment but installments over five years or more, (III) as an immediate life annuity, or (IV) no withdrawal permitted.

(ii) For Plan Type B: Before expiration of the interest rate guarantee, a policyholder may withdraw funds only (I) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, (II) without an adjustment but in installments over five years or more, or (III) no withdrawal permitted. At the end of the interest rate guarantee,

1 funds may be withdrawn without an adjustment in a single sum or
2 installments over less than five years.

3 (iii) For Plan Type C: Policyholder may withdraw funds before
4 expiration of interest rate guarantee in a single sum or installments
5 over less than five years either (I) without adjustment to reflect
6 changes in interest rates or asset values since receipt of the funds
7 by the insurance company, or (II) subject only to a fixed surrender
8 charge stipulated in the contract as a percentage of the fund.

9 (F) A company may elect to value guaranteed interest contracts
10 with cash settlement options and annuities with cash settlement
11 options on either an issue year basis or on a change in fund basis.
12 Guaranteed interest contracts with no cash settlement options and
13 other annuities with no cash settlement options shall be valued on
14 an issue year basis. As used in this section, an issue year basis of
15 valuation refers to a valuation basis under which the interest rate
16 used to determine the minimum valuation standard for the entire
17 duration of the annuity or guaranteed interest contract is the
18 calendar year valuation interest rate for the year of issue or year
19 of purchase of the annuity or guaranteed interest contract, and the
20 change in fund basis of valuation refers to a valuation basis under
21 which the interest rate used to determine the minimum valuation
22 standard applicable to each change in the fund held under the
23 annuity or guaranteed interest contract is the calendar year
24 valuation interest rate for the year of the change in the fund.

25 (d) The reference interest rate referred to in subdivision (b) shall
26 be defined as follows:

27 (1) For life insurance, the lesser of the average over a period of
28 36 months and the average over a period of 12 months, ending on
29 June 30 of the calendar year preceding the year of issue, of the
30 monthly average of the composite yield on seasoned corporate
31 bonds, as published by Moody's Investors Service, Inc.

32 (2) For single premium immediate annuities and for annuity
33 benefits involving life contingencies arising from other annuities
34 with cash settlement options and guaranteed interest contracts with
35 cash settlement options, the average over a period of 12 months,
36 ending on June 30 of the calendar year of issue or year of purchase,
37 of the monthly average of the composite yield on seasoned
38 corporate bonds, as published by Moody's Investors Service, Inc.

39 (3) For other annuities with cash settlement options and
40 guaranteed interest contracts with cash settlement options, valued

on a year of issue basis, except as stated in subdivision (b), with guarantee duration in excess of 10 years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(4) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in subparagraph (B) of paragraph (1) of subdivision (c), with guarantee duration of 10 years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(5) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

(6) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in subparagraph (B) of paragraph (1) of subdivision (c), the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of the monthly average of the composite yield on seasoned corporate bonds, as published by Moody's Investors Service, Inc.

~~(e) As an alternative method for determining reference interest rates, in the event that~~ If the monthly average of the composite yield on seasoned corporate bonds is no longer published by Moody's Investors Service, Inc., or in the event that the NAIC determines that the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Inc., is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate adopted by the NAIC and approved by regulation promulgated by the commissioner may be substituted.

(f) This section shall apply to all certificates and contracts issued by a fraternal benefit society.

~~SEC. 10.~~

SEC. 11. Section 10489.5 of the Insurance Code is amended to read:

10489.5. (a) Except as otherwise provided in Sections 10489.6, 10489.9, and 10489.95, reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of the future guaranteed benefits provided for by those policies, over the then present value of any future modified net premiums therefor. The modified net premiums for a policy shall be the uniform percentage of the respective contract premiums for the benefits such that the present value, at the date of issue of the policy, of all modified net premiums shall be equal to the sum of the then present value of the benefits provided for by the policy and the excess of paragraph (1) over paragraph (2), as follows:

(1) A net level annual premium equal to the present value, at the date of issue of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of the policy.

(2) A net one-year term premium for the benefits provided for in the first policy year.

(b) For a life insurance policy issued on or after January 1, 1986, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination in an amount greater than the excess premium, the reserve according to the commissioners reserve valuation method as of any policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value

1 then available is greater than the excess premium shall, except as
2 otherwise provided in Section 10489.9, be the greater of the reserve
3 as of the policy anniversary calculated as described in subdivision
4 (a) and the reserve as of the policy anniversary calculated as
5 described in subdivision (a), but with (1) the value defined in
6 paragraph (1) of subdivision (a) being reduced by 15 percent of
7 the amount of the excess first year premium, (2) all present values
8 of benefits and premiums being determined without reference to
9 premiums or benefits provided for by the policy after the assumed
10 ending date, (3) the policy being assumed to mature on that date
11 as an endowment, and (4) the cash surrender value provided on
12 that date being considered as an endowment benefit. In making
13 the above comparison the mortality and interest bases stated in
14 Sections 10489.2 and 10489.4 shall be used.

15 (c) Reserves according to the commissioners reserve valuation
16 method shall be calculated by a method consistent with
17 subdivisions (a) and (b) for the following: *paragraphs (1) to (4),*
18 *inclusive. However, any extra premiums charged because of*
19 *impairments or special hazards shall be disregarded in the*
20 *determination of modified net premiums.*

21 (1) Life insurance policies providing for a varying amount of
22 insurance or requiring the payment of varying premiums.

23 (2) Group annuity and pure endowment contracts purchased
24 under a retirement plan or plan of deferred compensation,
25 established or maintained by an employer (including a partnership
26 or sole proprietorship) or by an employee organization, or by both,
27 other than a plan providing individual retirement accounts or
28 individual retirement annuities under Section 408 of the Internal
29 Revenue Code, as *now or hereafter* amended.

30 (3) Disability and accidental death benefits in all policies and
31 contracts.

32 (4) All other benefits, except life insurance and endowment
33 benefits in life insurance policies and benefits provided by all other
34 annuity and pure endowment contracts, ~~except that any extra~~
35 ~~premiums charged because of impairments or special hazards shall~~
36 ~~be disregarded in the determination of modified net premiums.~~
37 ~~contracts.~~

38 ~~SEC. 11.~~

39 *SEC. 12.* Section 10489.6 of the Insurance Code is amended
40 to read:

1 10489.6. (a) This section shall apply to all annuity and pure
2 endowment contracts other than group annuity and pure endowment
3 contracts purchased under a retirement plan or plan of deferred
4 compensation, established or maintained by an employer (including
5 a partnership or sole proprietorship) or by an employee
6 organization, or by both, other than a plan providing individual
7 retirement accounts or individual retirement annuities under Section
8 408 of the Internal Revenue Code, as now or hereafter amended.

9 (b) Reserves according to the commissioners annuity reserve
10 method for benefits under annuity or pure endowment contracts,
11 excluding any disability and accidental death benefits in the
12 contracts, shall be the greatest of the respective excesses of the
13 present values, at the date of valuation, of the future guaranteed
14 benefits, including guaranteed nonforfeiture benefits, provided for
15 by the contracts at the end of each respective contract year, over
16 the present value, at the date of valuation, of any future valuation
17 considerations derived from future gross considerations, required
18 by the terms of the contract, that become payable prior to the end
19 of the respective contract year. The future guaranteed benefits shall
20 be determined by using the mortality table, if any, and the interest
21 rate, or rates, specified in the contracts for determining guaranteed
22 benefits. The valuation considerations are the portions of the
23 respective gross considerations applied under the terms of the
24 contracts to determine nonforfeiture values.

25 ~~SEC. 12.~~

26 *SEC. 13.* Section 10489.7 of the Insurance Code is amended
27 to read:

28 10489.7. (a) A company's aggregate reserves for all life
29 insurance policies, excluding disability and accidental death
30 benefits, shall not be less than the aggregate reserves calculated
31 in accordance with the methods set forth in Sections 10489.5,
32 10489.6, 10489.9, and 10489.93 and the mortality table or tables
33 and rate or rates of interest used in calculating nonforfeiture
34 benefits for the policies.

35 (b) The aggregate reserves for all policies, contracts, and benefits
36 shall not be less than the aggregate reserves determined by the
37 appointed actuary to be necessary to render the opinion required
38 by Section 10489.15.

~~SEC. 13.~~

SEC. 14. Section 10489.8 of the Insurance Code is amended to read:

10489.8. (a) Reserves for any category of policies, contracts, or benefits established by the commissioner may be calculated, at the option of the company, according to any standards that produce greater aggregate reserves for the category than those calculated according to the minimum standard provided in this article, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be greater than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided in the policies or contracts.

(b) A company, which adopts at any time a standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard provided under this article, may adopt a lower standard of valuation with the approval of the commissioner, but not lower than the minimum provided in this ~~article unless~~, *article*. However, for the purposes of this section, the holding of additional reserves previously determined by a qualified actuary to be necessary to render the opinion required by Section 10489.15 shall not be deemed to be the adoption of a higher standard of valuation.

~~SEC. 14.~~

SEC. 15. Section 10489.9 of the Insurance Code is amended to read:

10489.9. (a) If in any contract year the gross premium charged by any life insurer on any policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for such policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for such policy or contract, or the reserve calculated by the method actually used for such policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest

1 referred to in this section are those standards stated in Sections
2 10489.2, 10489.3, and ~~1489.4~~. 10489.4.

3 (b) For a life insurance policy issued on or after January 1, 1986,
4 for which the gross premium in the first policy year exceeds that
5 of the second year and for which no comparable additional benefit
6 is provided in the first year for such excess and which provides an
7 endowment benefit or a cash surrender value or a combination
8 thereof in an amount greater than such excess premium, the
9 foregoing provisions of this section shall be applied as if the
10 method actually used in calculating the reserve for such policy
11 were the method described in Section 10489.5, ignoring the second
12 paragraph of Section 10489.5. The minimum reserve at each policy
13 anniversary of such a policy shall be the greater of the minimum
14 reserve calculated in accordance with Section 10489.5, including
15 the second paragraph of that section, and the minimum reserve
16 calculated in accordance with this section.

17 ~~SEC. 15.~~

18 *SEC. 16.* Section 10489.93 of the Insurance Code is amended
19 to read:

20 10489.93. In the case of a plan of life insurance that provides
21 for future premium determination, the amounts of which are to be
22 determined by the insurance company based on then estimates of
23 future experience, or in the case of a plan of life insurance or
24 annuity that is of a nature that the minimum reserves cannot be
25 determined by the methods described in Sections 10489.5, 10489.6,
26 and 10489.9, the reserves that are held under the plan shall:

27 (a) Be appropriate in relation to the benefits and the pattern of
28 premiums for that plan; and

29 (b) Be computed by a method that is consistent with the
30 principles of this Standard Valuation Law, as determined by
31 regulations promulgated by the commissioner.

32 *SEC. 17.* Section 10489.94 of the Insurance Code is amended
33 to read:

34 10489.94. (a) The Commissioner may issue a bulletin to
35 provide tables of select mortality factors and rules for their use,
36 rules concerning a minimum standard for the valuation of plans
37 with nonlevel premiums of benefits, and rules concerning a
38 minimum standard for the valuation of plans with secondary
39 guarantees. The bulletin authorized by this subdivision shall have
40 the same force and effect, and may be enforced by the

1 commissioner to the same extent and degree, as regulations issued
2 by the commissioner. The commissioner ~~shall~~ *may also* adopt
3 regulations ~~that shall supersede the bulletin authorized by this~~
4 ~~section no later than December 31, 2002 to implement this section.~~

5 (b) It is the intent of the Legislature that the bulletin described
6 in subdivision (a) and the superseding regulations shall contain
7 the provisions of the National Association of Insurance
8 Commissioners Valuation of Life Insurance Model Regulation
9 Number ~~830 as adopted in March of 1999:~~ 830.

10 ~~SEC. 16.~~

11 ~~SEC. 18.~~ Section 10489.95 of the Insurance Code is repealed.

12 ~~SEC. 17.~~

13 ~~SEC. 19.~~ Section 10489.95 is added to the Insurance Code, to
14 read:

15 10489.95. For accident and health insurance contracts issued
16 on or after the operative date of the valuation manual, the standard
17 prescribed in the valuation manual is the minimum standard of
18 valuation required under subdivision (b) of Section 10489.12. For
19 disability and accident and health insurance contracts issued prior
20 to the operative date of the valuation manual, the minimum
21 standard of valuation is the standard adopted by the commissioner
22 by regulation.

23 ~~SEC. 18.~~

24 ~~SEC. 20.~~ Section 10489.96 is added to the Insurance Code, to
25 read:

26 10489.96. (a) For policies issued on or after the operative date
27 of the valuation manual, the standard prescribed in the valuation
28 manual is the minimum standard of valuation required under
29 subdivision (b) of Section 10489.12, except as provided under
30 subdivision (e) or (g).

31 (b) The operative date of the valuation manual is January 1 of
32 the first calendar year following the first July 1 as of which all the
33 following have occurred:

34 (1) The valuation manual has been adopted by the NAIC by an
35 affirmative vote of at least 42 members, or three-fourths of the
36 members voting, whichever is greater.

37 (2) The Standard Valuation Law, as amended by the NAIC in
38 2009, or legislation including substantially similar terms and
39 provisions, has been enacted by states representing greater than
40 75 percent of the direct premiums written as reported in the

1 following annual statements submitted for 2008: life, accident,
2 and health annual statements, health annual statements, or fraternal
3 annual statements.

4 (3) The Standard Valuation Law, as amended by the NAIC in
5 2009, or legislation including substantially similar terms and
6 provisions, has been enacted by at least 42 of the following 55
7 jurisdictions: The 50 ~~States~~ *states* of the United States, American
8 Samoa, the ~~American~~ *United States* Virgin Islands, the District of
9 Columbia, Guam, and Puerto Rico.

10 (c) Unless a change in the valuation manual specifies a later
11 effective date, changes to the valuation manual shall be effective
12 on January 1 following the date when all of the following have
13 occurred:

14 (1) The change to the valuation manual has been adopted by
15 the NAIC by an affirmative vote representing:

16 (A) At least three-fourths of the members of the NAIC voting,
17 but not less than a majority of the total membership.

18 (B) Members of the NAIC representing jurisdictions totaling
19 greater than 75 percent of the direct premiums written as reported
20 in the following annual statements most recently available prior
21 to the vote in subparagraph (A): life, accident, and health annual
22 statement, health annual statements, or fraternal annual statements.

23 (2) ~~The valuation manual becomes effective pursuant to an order~~
24 ~~adopted by the commissioner, which~~ *The commissioner has issued*
25 *an order adopting the valuation manual with the changes. The*
26 *commissioner shall issue the order only if he or she finds that the*
27 *conditions set forth in paragraph (1) have been satisfied. The order*
28 shall not be subject to Chapter 3.5 (commencing with Section
29 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

30 (d) The valuation manual shall specify all of the following:

31 (1) Minimum valuation standards for and definitions of the
32 policies or contracts subject to subdivision (b) of Section 10489.12.
33 Those minimum valuation standards shall be:

34 (A) The commissioners reserve valuation method for life
35 insurance contracts, other than annuity contracts, subject to
36 subdivision (b) of Section 10489.12.

37 (B) The commissioners annuity reserve valuation method for
38 annuity contracts subject to subdivision (b) of Section 10489.12.

39 (C) Minimum reserves for all other policies or contracts subject
40 to subdivision (b) of Section 10489.12.

1 (2) Which policies or contracts or types of policies or contracts
2 ~~that~~ are subject to the requirements of a principle-based valuation
3 in subdivision (a) of Section 10489.97 and the minimum valuation
4 standards consistent with those requirements.

5 (3) For policies and contracts subject to a principle-based
6 valuation under Section 10489.97:

7 (A) Requirements for the format of reports to the commissioner
8 under paragraph (3) of subdivision (b) of Section 10489.97, ~~and~~
9 which shall include information necessary to determine if the
10 valuation is appropriate and in compliance with this article.

11 (B) Assumptions ~~shall be prescribed~~ for risks over which the
12 company does not have significant control or influence.

13 (C) Procedures for corporate governance and oversight of the
14 actuarial function, and a process for appropriate waiver or
15 modification of those procedures.

16 (4) For policies not subject to a principle-based valuation under
17 Section 10489.97, the minimum valuation standard ~~shall be either~~
18 ~~of the following~~, *which shall either*:

19 (A) Be consistent with the minimum standard of valuation prior
20 to the operative date of the valuation manual.

21 (B) Develop reserves that quantify the benefits and guarantees,
22 and the funding, associated with the contracts and their risks at a
23 level of conservatism that reflects conditions that include
24 unfavorable events that have a reasonable probability of occurring.

25 (5) Other requirements, including, but not limited to, those
26 relating to reserve methods, models for measuring risk, generation
27 of economic scenarios, assumptions, margins, use of company
28 experience, risk measurement, disclosure, certifications, reports,
29 actuarial opinions and memorandums, transition rules, and internal
30 controls.

31 (6) The data and form of the data required under Section
32 10489.98, with whom the data is required to be submitted, and
33 may specify other requirements including data analyses and
34 reporting of analyses.

35 (e) In the absence of a specific valuation requirement or if a
36 specific valuation requirement in the valuation manual is not, in
37 the opinion of the commissioner, in compliance with, or conflicts
38 with, this code, then the company shall, with respect to those
39 requirements, comply with the minimum valuation standards

1 prescribed by the code or by the commissioner by regulation or
2 bulletin.

3 (f) The commissioner may engage a qualified actuary, at the
4 expense of the company, to perform an actuarial examination of
5 the company and opine on the appropriateness of any reserve
6 assumption or method used by the company, or to review and opine
7 on a company's compliance with any requirement set forth in this
8 article. The commissioner may rely upon the opinion, regarding
9 the provisions contained within this article, of a qualified actuary
10 engaged by the commissioner of another state, district, or territory
11 of the United States. As used in this subdivision, the term "engage"
12 includes employment and contracting.

13 (g) The commissioner may require a company to change any
14 assumption or method that in the opinion of the commissioner is
15 necessary in order to comply with the requirements of the valuation
16 manual or this article, and the company shall adjust the reserves
17 as required by the commissioner. The commissioner may take
18 other disciplinary action as permitted pursuant to all other
19 applicable law.

20 ~~SEC. 19:~~

21 *SEC. 21.* Section 10489.97 is added to the Insurance Code, to
22 read:

23 10489.97. (a) A company shall establish reserves using a
24 principle-based valuation that meets the following conditions for
25 policies or contracts as specified in the valuation manual:

26 (1) Quantify the benefits, guarantees, and the funding associated
27 with the contracts and their risks at a level of conservatism that
28 reflects conditions that include unfavorable events that have a
29 reasonable probability of occurring during the lifetime of the
30 contracts. For policies or contracts with significant tail risk, reflects
31 conditions appropriately adverse to quantify the tail risk.

32 (2) Incorporate assumptions, risk analysis methods, and financial
33 models and management techniques that are consistent with, but
34 not necessarily identical to, those utilized within the company's
35 overall risk assessment process, while recognizing potential
36 differences in financial reporting structures and any prescribed
37 assumptions or methods.

38 (3) Incorporate assumptions that are derived in one of the
39 following manners:

40 (A) The assumption is prescribed in the valuation manual.

(B) For assumptions that are not prescribed, the assumptions shall:

(i) Be established utilizing the company's available experience, to the extent it is relevant and statistically credible.

(ii) To the extent that company data is not available, relevant, or statistically credible, be established utilizing other relevant, statistically credible experience.

(4) Provide margins for uncertainty including adverse deviation and estimation error, such that the greater the uncertainty the larger the margin and resulting reserve.

(b) A company using a principle-based valuation for one or more policies or contracts subject to this section as specified in the valuation manual shall do the following:

(1) Establish procedures for corporate governance and oversight of the actuarial valuation function consistent with those described in the valuation manual.

(2) Provide to the commissioner and the board of directors of the company an annual certification of the effectiveness of the internal controls with respect to the principle-based valuation. The controls shall be designed to ~~assure~~ *ensure* that all material risks inherent in the liabilities and associated assets subject to such valuation are included in the valuation, and that valuations are made in accordance with the valuation manual. The certification shall be based on the controls in place as of the end of the preceding calendar year.

(3) Develop, and file with the commissioner upon request, a principle-based valuation report that complies with standards prescribed in the valuation manual.

(c) A principle-based valuation may include a prescribed formulaic reserve component.

~~SEC. 20.~~

SEC. 22. Section 10489.98 is added to the Insurance Code, to read:

10489.98. A company shall submit mortality, morbidity, policyholder behavior, or expense experience and other data as prescribed in the valuation manual.

~~SEC. 21.~~

SEC. 23. Section 10489.99 is added to the Insurance Code, to read:

1 10489.99. (a) For purposes of this section, “confidential
2 information” shall mean:

3 (1) A memorandum in support of an opinion submitted under
4 Section 10489.15 and any other documents, materials, and other
5 information, including, but not limited to, all working papers, and
6 copies thereof, created, produced, or obtained by or disclosed to
7 the commissioner or any other person in connection with the
8 memorandum.

9 (2) All documents, materials, and other information, including,
10 but not limited to, all working papers, and copies thereof, created,
11 produced, or obtained by or disclosed to the commissioner or any
12 other person in the course of an examination made under
13 subdivision (f) of Section 10489.96. However, if an examination
14 report or other material prepared in connection with an examination
15 made under Article 4 (commencing with Section 729) of Chapter
16 1 of Part 2 of Division 1 is not held as private and confidential
17 information under that article, an examination report or other
18 material prepared in connection with an examination made under
19 subdivision (f) of Section 10489.96 shall not be “confidential
20 information” to the same extent as if the examination report or
21 other material had been prepared under Article 4.

22 (3) Any reports, documents, materials, and other information
23 developed by a company in support of, or in connection with, an
24 annual certification by the company under paragraph (2) of
25 subdivision (b) of Section 10489.97 evaluating the effectiveness
26 of the company’s internal controls with respect to a principle-based
27 valuation and any other documents, materials, and other
28 information, including, but not limited to, all working papers, and
29 copies thereof, created, produced, or obtained by or disclosed to
30 the commissioner or any other person in connection with those
31 reports, documents, materials, and other information.

32 (4) Any principle-based valuation report developed under
33 paragraph (3) of subdivision (b) of Section 10489.97 and any other
34 documents, materials, and other information, including, but not
35 limited to, all working papers, and copies thereof, created,
36 produced, or obtained by or disclosed to the commissioner or any
37 other person in connection with the report.

38 (5) All of the following:

1 (A) Any documents, materials, data, and other information
2 submitted by a company under Section 10489.98, to be known
3 collectively, as “experience data.”

4 (B) Experience data plus any other documents, materials, data,
5 and other information, including, but not limited to, all working
6 papers, and copies thereof, created or produced in connection with
7 the experience data, in each case that includes any potentially
8 company-identifying or personally identifiable information, that
9 is provided to or obtained by the commissioner, to be known,
10 collectively, as “experience materials.”

11 (C) Any other documents, materials, data, and other information,
12 including, but not limited to, all working papers, and copies thereof,
13 created, produced, or obtained by or disclosed to the commissioner
14 or any other person in connection with the experience materials.

15 (b) (1) Except as provided in this section, a company’s
16 confidential information is confidential by law and privileged, it
17 shall not be subject to the California Public Records Act, and shall
18 not be subject to subpoena or discovery or admissible in evidence
19 in any private civil action. However, the commissioner is
20 authorized to use the confidential information in a regulatory or
21 legal action brought against the company as a part of the
22 commissioner’s official duties.

23 (2) The commissioner, and any person who received confidential
24 information while acting under the authority of the commissioner,
25 shall not be permitted or required to testify in a private civil action
26 concerning any confidential information.

27 (3) In order to assist in the performance of the commissioner’s
28 duties, the commissioner may share confidential information with
29 the following recipients, provided that the recipient agrees, and
30 has the legal authority to agree, to maintain the confidentiality and
31 privileged status of the documents, materials, data, and other
32 information in the same manner and to the same extent as required
33 for the commissioner:

34 (A) Other state, federal, and international regulatory agencies
35 and with the NAIC and its affiliates and subsidiaries.

36 (B) In the case of confidential information specified in
37 paragraphs (1) and (4) of subdivision (a) of Section 10489.99 only,
38 with the Actuarial Board for Counseling and Discipline or its
39 successor upon request stating that the confidential information is

1 required for the purpose of professional disciplinary proceedings
2 and with state, federal, and international law enforcement officials.

3 (4) The commissioner may receive documents, materials, data,
4 and other information, including otherwise confidential and
5 privileged documents, materials, data, or information, from the
6 NAIC and its affiliates and subsidiaries, from regulatory or law
7 enforcement officials of other foreign or domestic jurisdictions,
8 and from the Actuarial Board for Counseling and Discipline or its
9 successor and shall maintain as confidential or privileged any
10 document, material, data, or other information received with notice
11 or the understanding that it is confidential or privileged under the
12 laws of the jurisdiction that is the source of the document, material,
13 or other information.

14 (5) The commissioner may enter into agreements governing
15 sharing and use of information consistent with this subdivision.

16 (6) A waiver of any applicable privilege or claim of
17 confidentiality in the ~~confidentiality~~ information shall not occur
18 as a result of disclosure to the commissioner under this section or
19 as a result of sharing as authorized in paragraph (3).

20 (7) A privilege established under the law of any state or
21 jurisdiction that is substantially similar to the privilege established
22 under subdivision (b) shall be available and enforced in any
23 proceeding in, and in any court of, this state.

24 (8) For purposes of this section, “regulatory agency,” “law
25 enforcement agency,” and the “NAIC” include, but are not limited
26 to, their employees, agents, consultants, and contractors.

27 (c) Notwithstanding subdivision (b), any confidential
28 information specified in paragraphs (1) and (4) of subdivision (a):

29 (1) May be subject to subpoena for the purpose of defending
30 an action seeking damages from the appointed actuary submitting
31 the related memorandum in support of an opinion submitted under
32 Section 10489.15 or principle-based valuation report developed
33 under paragraph (3) of subdivision (b) of Section 10489.97 by
34 reason of an action required by this article or by regulations
35 promulgated pursuant to this article.

36 (2) May otherwise be released by the commissioner with the
37 written consent of the company.

38 (3) Once any portion of a memorandum in support of an opinion
39 submitted under Section 10489.15 or a principle-based valuation
40 report developed under paragraph (3) of subdivision (b) of Section

1 10489.97 is cited by the company in its marketing or is publicly
2 volunteered to or before a governmental agency other than a state
3 insurance department or is released by the company to the news
4 media, all portions of the memorandum or report shall no longer
5 be confidential.

6 ~~SEC. 22.~~

7 *SEC. 24.* Section 10489.992 is added to the Insurance Code,
8 to read:

9 10489.992. (a) (1) The commissioner may hire and assign
10 department staff, and retain nondepartment actuaries and other
11 consultants, to assist the commissioner with preparing to implement
12 and implementing, directly or indirectly, principle-based valuation.

13 (2) The commissioner may appoint a person to serve as an expert
14 in preparing to implement and implementing, directly or indirectly,
15 principle-based valuation. That person may be an employee of the
16 department exempt from the state civil service system within the
17 meaning of Section 4 of Article VII of the California Constitution.
18 The person's salary or compensation shall be fixed by the
19 commissioner and effective and payable without approval of the
20 Department of Human Resources, pursuant to Section 19825 of
21 the Government Code.

22 (b) (1) Notwithstanding any other law, the commissioner may
23 annually assess all insurers that are subject to this article to defray
24 costs the department incurs preparing to implement and
25 implementing, directly or indirectly, principle-based valuation,
26 including, but not limited to, department salaries and overhead,
27 and actuary and consultant fees and expenses.

28 (2) The commissioner shall annually set an "aggregate
29 assessment amount" and an assessment amount for each tier listed
30 in paragraph (4). The aggregate assessment amount shall be the
31 amount necessary to provide sufficient moneys to carry out the
32 projected workload to implement, directly or indirectly,
33 principle-based valuation. The annual aggregate assessment amount
34 shall be no less than one million dollars (\$1,000,000).

35 (3) At least 90 days before finalizing the annual aggregate
36 assessment amount and assessment amount for the tiers listed in
37 paragraph (4), the commissioner shall provide notice of the
38 commissioner's preliminary determination of those amounts. The
39 notice shall explain how the commissioner derived the amounts

1 and provide no less than 45 days for interested parties to provide
2 comments.

3 (4) Not less than 45 days after the due date for comments
4 specified in paragraph (3), the commissioner shall by bulletin
5 establish the annual aggregate assessment amount according to
6 the insurer's annual premium based on the below tiers. For
7 purposes of this section, "annual premium" shall mean the gross
8 annual life insurance premium written by an insurer in California
9 during the immediately preceding year as reported in its annual
10 statutory financial statement.

Annual Premium	Initial Annual Assessment Per Insurer
\$500,000,001 +	\$75,000
\$400,000,001 - \$500,000,000	\$50,000
\$300,000,001 - \$400,000,000	\$40,000
\$200,000,001 - \$300,000,000	\$30,000
\$150,000,001 - \$200,000,000	\$20,000
\$100,000,001 - \$150,000,000	\$10,000
\$50,000,001 - \$100,000,000	\$5,000

21 (5) All examinations and analyses of reserves and
22 principle-based valuation methodologies performed under Section
23 730 may be at the expense of the company, organization, or person
24 examined, pursuant to Section 736.

25 (c) Before retaining an independent actuary or consultant under
26 paragraph (1) of subdivision (a), the commissioner shall require a
27 written declaration by the actuary or consultant that:

28 (1) The actuary shall not disclose to another party, other than
29 the department, and shall protect from unauthorized use, any
30 confidential information, as defined in Section 10489.99, obtained
31 in the course of his or her work for the commissioner, unless
32 authorized to do so by the commissioner or required by law.

33 (2) The actuary or consultant shall not disclose to another party
34 and shall protect from unauthorized use, all confidential
35 information obtained from the department in the course of his or
36 her work for the commissioner.

37 (d) Before retaining an independent actuary or consultant under
38 paragraph (1) of subdivision (a), the commissioner shall require a
39 written declaration by the actuary or consultant that:

1 (1) The actuary or consultant will not perform professional
2 services involving an actual or potential conflict of interest unless
3 all of the following are satisfied:

4 (A) The actuary's or consultant's ability to perform the services
5 fairly is unimpaired.

6 (B) There has been disclosure of the conflict to all present, or
7 known prospective, clients or employers of the actuary or
8 consultant whose interests would be affected by the conflict.

9 (C) All present, or known prospective, clients or employers of
10 the actuary or consultant have expressly agreed to the performance
11 of the services by the actuary or consultant.

12 (2) The actuary or actuarial firm with which the actuary is
13 affiliated was not involved in developing the reserves or
14 principle-based valuation methodology under consideration by the
15 actuary.

16 (3) The actuary or consultant has disclosed any financial interest
17 in the companies whose reserves or principle-based valuation
18 methodologies may be affected by the actuary's or consultant's
19 services.

20 (e) The commissioner may develop and amend regulations to
21 implement or modify subdivisions (c) and (d). The initial adoption
22 of the regulations shall be deemed to be an emergency and
23 necessary in order to address a situation calling for immediate
24 action to avoid serious harm to the public peace, health, safety, or
25 general welfare. Notwithstanding Chapter 3.5 (commencing with
26 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
27 Code, any emergency regulation adopted or amended by the
28 commissioner pursuant to this section shall remain in effect until
29 amended or repealed by the department. All bulletins adopted by
30 the commissioner pursuant to this article shall not be subject to
31 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
32 3 of Title 2 of the Government Code.

33 ~~SEC. 23.~~

34 ~~SEC. 25.~~ The Legislature finds and declares that Section 3 6
35 of this act, which amends Section 10489.15 of the Insurance Code,
36 imposes a limitation on the public's right of access to the meetings
37 of public bodies or the writings of public officials and agencies
38 within the meaning of Section 3 of Article I of the California
39 Constitution. Pursuant to that constitutional provision, the

- 1 Legislature makes the following findings to demonstrate the interest
- 2 protected by this limitation and the need for protecting that interest:
- 3 In order to protect proprietary information, it is necessary to
- 4 enact legislation to ensure that information provided pursuant to
- 5 the Standard Valuation Law provided pursuant to this act is kept
- 6 confidential.

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